



# TENNESSEE REAL ESTATE News-Journal

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## Annual Seminar is Successful

The Ninth Annual TREC Seminar was presented in eight cities across the state and was attended by more than 650 individuals. The basic topics covered were: 1998 legislative changes which affect licensees, earnest money disputes, establishing and disclosing agency relationships, E&O Insurance and risk reduction. The question and answer period stimulated good discussions between and among licensees, TREC staff members and Amanda Stephenson from the Frontier Insurance Company.



Following are some of the most frequently asked questions along with answers and explanations.

Question: Does E&O Insurance cover property a licensee owns and sells? Answer: Only if the ownership portion held by the licensee and the licensee's spouse was less than 10 percent. The most common scenario revolved around a licensee who is married to a builder and sells the

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## Instructor Training Workshop Planned

The Tennessee Real Estate Education Foundation will be holding an Instructor Training Workshop in Nashville on the 27th and 28th of January, 1999. Successful completion of this workshop will fulfill the basic educational requirement needed to teach pre-licensing and broker management courses. For more information, contact Sally Law at 800-252-6012 or 615-321-0515.

### License Renewal Deadline December 31, 1998

**If you failed to renew a  
license by that date,  
please see License  
Reinstatement Policy  
on Page 3 of this  
NewsJournal**

**1999-2000 E&O  
Insurance Information  
appears on tear-off  
section of this  
publication**

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## Real Estate Agency Fined \$11,000 For Violation of Lead Paint Rules

Allegedly failing to comply with the EPA lead based paint regulations, resulted in a \$11,000 fine against an Oklahoma real estate agency.

According to an EPA news release the real estate agency was fined a civil penalty for violation of the Real Estate Notification and Disclosure Rule under the Toxic Substance Control Act.

The regulation requires sellers and lessors of rental property to provide purchasers and tenants with an EPA approved lead hazard information booklet for all properties constructed before 1978. They also must provide a ten day period to allow the parties to inspect the housing for the presence of lead hazards.

In addition, the sales contract and leasing agreement must include specific language

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## New Staff Members for TREC Audit Team



Lovell

Kerley

Jane Lovell joined the Tennessee Real Estate Commission as an Auditor Supervisor the middle of June. She has most recently worked for the State of Tennessee in both the Department of Revenue and the Department of Corrections. Ms. Lovell's duties include supervising the other real estate auditors and also auditing firms in the middle Tennessee area.

Lovell, who recently relocated to the Nashville area after living in Knoxville for the past several years, was born in Nashville and grew up in northern Alabama. A graduate of Trevecca Nazarene University with a major in accounting, Ms. Lovell has both the education and experience to enhance the investigation activities of the Commission.

Ms. Lovell is a mother of two teenagers, Stacey and Daniel, and enjoys traveling, gardening, sewing, sports and church activities. When asked what Lovell looked forward to most with this new professional experience she said, "I am looking forward to the challenges and opportunities that will come with this new position."

The Commissioners and the administrative staff are delighted to have an individual with Ms. Lovell's credentials working with them.

Sue Kerley, complaint processing administrator, has had ten years experience as a legal secretary. She is stationed at the administrative office of the Commission in Nashville and assists Reid Brogden, Commission General Counsel, with the review, analysis and processing of complaints submitted from consumers. Ms. Kerley, who earned her Certified Professional Secretary credential in 1995, became a first-time grandmother shortly after joining the Commission's staff and is thoroughly enjoying that aspect of her life. Her outstanding communication skills have already made her an integral part of the Commission's day to day activities.

### Annual Seminar is Successful

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builder's homes. In this case E&O Insurance would not cover the transactions.

**Question:** Should a licensee assist a seller in completing the property disclosure form?  
**Answer:** Never should a licensee assist a seller in completing the property disclosure form. If the seller is unable to read or write the licensee should advise the seller to have a relative or friend assist in completion of the form.

**Question:** If I am a Tennessee resident licensee, should I receive a non-resident license in another jurisdiction, should I advise the Tennessee Real Estate Commission?  
**Answer:** Yes. A Tennessee resident licensee must provide a copy of the non-resident license(s) to the Tennessee Commission and copies of future licenses upon renewal.

## Real Estate Agency Fined \$11,000 for Violation of Lead Paint Rules

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regarding notification and disclosure of lead based paint.

The real estate agency was charged after it was discovered that they allegedly failed to provide the required notification in a house that was leased to a mother with a young child.

Although the regulation became effective in September 1996 this is one of the first actions against violators since the effective date of the regulation.

EPA also reported that among those fined was the Kingsville Naval Air Station in Kingsville, TX, which was hit with a \$408,375 fine. This is apparently the first penalty issued to a Federal facility for violating the lead disclosure rule, and is the largest assessed penalty for violating the lead disclosure rules.

A total of a half-million dollars in civil fines have been served involving 20 notices of non compliance according to the EPA.

Additional information on the HUD/EPA lead rules may be found at our fax on demand by calling (210) 225-8450 from the handset at your fax machine, and pressing number 96169 at the prompt. If you do not have a sample of the official booklet that must be presented under these rules, call us at 1-800-486-3676 and we will be happy to send you one.

*This article was reprinted with permission from the fall 1998 edition of The Environmental consultant newsletter of the National Society of Environmental Consultants.*

# DISCIPLINARY ACTION

## December 1998

### Marcia Raines

License No. 259158

Lebanon, Tennessee

**Consent Order:** It was alleged that the respondent failed to disclose water problems when selling her own property.

**Penalty:** Respondent's license suspended for 90 days effective January 1, 1999 and shall pay a \$1000.00 civil penalty.

### Joyce Nunley

License No. 231876

Athens, Tennessee

**Consent Order:** Respondent mishandled money belonging to property owners, failed to remit statements detailing proceeds of rentals of the client's property and failed to answer the complaint as required by law.

**Penalty:** Revocation of real estate license.

### Diane Mason

License No. 267334

Brentwood, TN

**Consent Order:** Respondent ran a blind advertisement and failed to identify herself as a licensed affiliate broker.

**Penalty:** Respondent paid a civil penalty of \$250.00

### Brett Anz

Unlicensed

Dallas, TX

**Consent Order:** Respondent engaged in activities which require a Tennessee Real Estate License without such a license.

**Penalty:** Respondent agreed to cease and desist such activity and paid a \$1,000.00 Civil Penalty.

### Dan Zellers

Unlicensed

Nashville, TN

**Consent Order:** Unlicensed respondent engaged in assisting consumers to find rental housing for a fee which is in violation of the Tennessee Brokers Act.

**Penalty:** Respondent agreed to pay a \$1000.00 Civil Penalty.

**LICENSE REINSTATEMENTS FOLLOWING FAILURE TO RENEW IN A TIMELY FASHION - LICENSEE(S) SIGNED AN AGREED CITATION AND PAID CIVIL PENALTY OF \$2500.00:**

**Christopher Carruthers**

License No. 218874

Memphis, TN

## License Reinstatement Procedures

In November of 1995, the Tennessee Real Estate Commission established a policy whereby an individual who failed to timely renew a license could reinstate that license. That policy is stated below for individuals who do not renew their licenses by December 31, 1998:

**Renewal Fee Reinstatement Policy - Licensees may reinstate their licenses after the renewal deadline by paying the following fees in addition to the license renewal fee. Licensees may choose to reapply for licensure if they do not wish to**

comply with this policy.

### January 1 - February 28 (following the deadline)

Renewal Fee

\$25.00 Late Fee

### March 1 - December 31 through second year after the deadline

Renewal Fee

\$25.00 for every month (or portion) after the deadline.

**Reinstatement for Failure to Complete Continuing Education - Affiliate Broker licensees may reinstate their licenses after failing to complete their required continuing education by the deadline by completing the**

following requirements and paying the fees.

### January 1 - June 30 (following the deadline)

Complete 16 hours of Continuing Education

Complete 8 hours of Penalty Continuing Education

Pay \$100.00 Civil Penalty

### July 1 - December 31 (first year only following deadline)

(Valid ONLY FOR THOSE INDIVIDUALS WHO PAID A RENEWAL FEE BY 6/1)

Complete 16 hours of Continuing Education

Complete 16 hours of Penalty Continuing Education

Pay \$200.00 Civil Penalty





A Subsidiary of Frontier Insurance Group, Inc.

P.O. Box 6709  
Louisville, KY 40206-0709  
(800) 637-7319 / (502) 897-1876  
Fax: (502) 897-7174

December 1998

Dear Tennessee Licensee:

We are pleased that the State of Tennessee has renewed its contract with Frontier Insurance to provide the group coverage to its real estate licensees. All active real estate licensees are required by TCA Title 62 Chapter 13 to procure and maintain E&O insurance coverage as a condition of continued licensure. The new group policy period is from January 1, 1999 to January 1, 2001. Frontier's group program offers \$100,000 policy limits for only **\$118 per two-year period** with no deductible for legal expenses and a \$1,000 claims loss deductible. If more than one Frontier insured at your firm is named in a covered claim, only one deductible will apply. Legal expenses and the cost of defending claims are paid in addition to the liability limits.

Please note that this policy is written on a "Claims-Made" basis and only applies to claims first made against an Insured and reported to the Company in writing during the Individual Policy Period unless, and to the extent, an Extended Reporting Period applies. There have been no changes in the policy from the prior period. The new declarations page is on the back of this letter, please attach it to your current policy.

**ACTIVE** licensees are **REQUIRED** to carry E&O insurance. Insurance for companies, corporations, etc., is optional. **INACTIVE** licensees (brokers and salespersons) are not required to have E&O insurance but may want to purchase an Optional Extended Reporting Period Extension.

**OPTIONAL COVERAGES AVAILABLE:**

**Conformity Extension** (makes policy conform to insurance requirements of other mandatory states) - additional **\$15.00**. If you have a license in more than one state that has a mandatory requirement for E&O coverage (AL, ID, IA, KY, LA, MS, NE, SD, RI, TN) it is necessary to purchase a Conformity Extension which will make your policy conform to the insurance requirements of the other mandatory states. The cost of this extension is \$15, regardless of the number of states selected at the time of policy issuance. Please indicate applicable states and make check payable to Frontier.

**Firm license coverage and higher limits for firms** whose licensees are covered by the group program is also available (but not required by law). For firm license coverage, send your premium directly to the Commission along with your license renewal. For higher limits, all licensees associated with the firm must have the group insurance and a separate firm application must be completed to obtain higher limits. Please contact our office to request an application.

**An Optional Extended Reporting Period (ERP) extension** is available for licensees who have placed their license inactive or otherwise have not renewed their coverage. If a licensee does not obtain a new policy, the licensee will be insured for any claim made within 365 days of the expiration date, provided the error or omission upon which the claim is based took place after the "retroactive date" and before the policy expired. Those licensees who do not renew their policies will not be covered beyond the 365 day period. An ERP extension can only be purchased within 90 days after the licensee's policy has terminated. An ERP extension is important because so many professional liability claims are not made until months after the subject transaction occurs. To obtain an ERP extension please contact our office.

Your E&O premium should be sent directly to the Commission along with your license renewal. If you would like to obtain an excess policy in the name of your real estate firm, purchase a conformity extension to meet the mandatory insurance requirements of another state, or request a copy of the policy, you may contact our Policy Administrative Specialist, Ivy Winburn. Shari Elliott, Claims Examiner, will be happy to answer your coverage and claims related questions. Please call us toll-free at (888) 248-2444. We look forward to providing your E&O insurance coverage.

Sincerely,

Cindy Rice Grissom  
Vice President



Rock Hill, New York 12775-8000  
(A Capital Stock Company)

Frontier - Administrative Office:  
P.O. Box 6709  
Louisville, Kentucky 40206-0709  
(502) 897-1876  
(800) 637-7319

Agent:

**REAL ESTATE AGENTS AND BROKERS ERRORS AND OMISSIONS  
DECLARATIONS**

**THIS IS A CLAIMS-MADE POLICY. PLEASE READ THIS POLICY CAREFULLY.**

NOTICE: THIS IS A CLAIMS-MADE POLICY. EXCEPT AS MAY BE OTHERWISE PROVIDED HEREIN THIS COVERAGE IS LIMITED TO LIABILITY FOR ONLY THOSE CLAIMS WHICH ARE FIRST MADE AGAINST THE INSURED AND REPORTED TO THE COMPANY WHILE THE POLICY IS IN FORCE.

Policy Number: 99EO 0002 TN

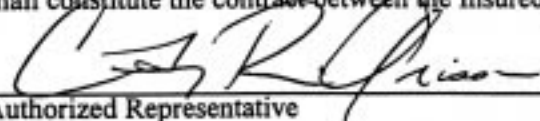
- ITEM 1. NAMED INSURED: Each individual currently licensed by the Tennessee Real Estate Commission under the Tennessee Real Estate License Act who has paid the required premium charged for this policy to the Tennessee Real Estate Commission per T.C.A. Title 62 Chapter 13. 500 James Robertson Pkwy. , Nashville, TN 37243-1151
- ITEM 2. POLICY PERIOD: From January 1, 1999 To January 1, 2001  
(12:01 A.M. Standard Time at the Address stated in Item 1)
- ITEM 3. LIMITS OF LIABILITY (a) \$100,000 per Insured Licensee per claim.  
(b) \$NONE annual aggregate for each policy period.
- ITEM 4. DEDUCTIBLE(S)  
DAMAGES \$ 1000.00 each claim  
CLAIMS EXPENSES \$ NONE each claim  
COMBINED \$ Not Applicable each claim
- ITEM 5. PREMIUM \$ 118 for 24 months
- ITEM 6. RETROACTIVE DATE As determined for each insured according to policy form.

This insurance does not apply to any claim or claims made against the Insured based upon, arising out of, or attributable to any negligent act(s), error(s), omission(s) committed or alleged to have been committed prior to the Retroactive Date listed above.

- ITEM 7. OPTIONAL EXTENDED REPORTING ADDITIONAL PREMIUM: \$118.00
- ITEM 8. FORM OF BUSINESS: // INDIVIDUAL /X/ FIRM OR ORGANIZATION  
BUSINESS DESCRIPTION: Tennessee Real Estate Commission
- ITEM 9. FORMS AND ENDORSEMENTS.

Endorsements attached to this Policy.

The Declarations page and the forms listed and attached hereto, together with the completed and signed application shall constitute the contract between the Insured(s) and the Company.

  
Authorized Representative

12-21-98  
Date

Countersignature